

JOSEPH P. KENNEDY III
4TH DISTRICT, MASSACHUSETTS

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON HEALTH
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Congress of the United States
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9

January 4, 2019

The Honorable Ajit Pai
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20544

Dear Chairman Pai:

I am writing regarding the Further Notice of Proposed Rule Making for Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992.

Public, educational, and governmental (PEG) channels play an important role in providing valuable local content to television viewers. Stations in my district in Massachusetts are concerned that the FCC's proposal will jeopardize their funding, thereby restricting their ability to broadcast emergency alerts, programming for children and students, and the proceedings of local government.

As the FCC proceeds with consideration of this proposal, I encourage you to prioritize the concerns of PEG channels and viewers from all across this country and to refrain from taking any action that would impair their ability to share and enjoy unique, local content.

Sincerely,



Joseph P. Kennedy, III
Member of Congress



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

January 31, 2019

The Honorable Joseph P. Kennedy
U.S. House of Representatives
434 Cannon House Office Building
Washington, D.C. 20515

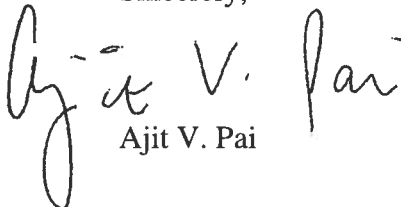
Dear Congressman Kennedy:

Thank you for your letter regarding the impact that the statutory cap on franchise fees has on funding for public, educational, or governmental (PEG) channels. As you know, the Communications Act limits franchise fees to 5% of cable revenues and defines “franchise fee” to include “any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such.” 47 U.S.C. § 542(g)(1). The U.S. Court of Appeals for the Sixth Circuit has held that the terms “tax” and “assessment” can include nonmonetary exactions. *Montgomery County, Md. et al. v. FCC*, 863 F.3d 485, 490-91 (6th Cir. 2017).

In response to a remand from the Sixth Circuit, the Commission unanimously issued its Second Further Notice of Proposed Rulemaking to consider the scope of the congressionally-mandated statutory limit on franchise fees. Among other things, the Commission observed that Congress broadly defined franchise fees; indeed, with respect to PEG channels, it only excluded support payments with respect to franchises granted prior to October 30, 1984 as well as capital costs required by franchises granted after that date. 47 U.S.C. § 542(g)(2)(B) & (C). The record of this proceeding remains open, and I encourage all interested parties and stakeholders—including local franchising authorities—to provide us with relevant evidence regarding these issues so that the Commission can make the appropriate judgment about the path forward, consistent with federal law. Your views will be entered into the record of the proceeding and considered as part of the Commission’s review.

Please let me know if I can be of any further assistance.

Sincerely,


Ajit V. Pai